

1 tion for the allegation that Capitol did it.

2 MR. JOYCE: I believe there was, but I'll withdraw  
3 the question because this is mind-numbing.

4 JUDGE CHACHKIN: All right. Then I'll strike the,  
5 the answer. Go ahead.

6 BY MR. JOYCE:

7 Q Okay. Mr. Capehart, you know, you know how to  
8 monitor your operations, 152.48 PCP operations, is that  
9 correct?

10 A Yes.

11 Q Okay. How do you actually do that?

12 A Well, the way we monitor our -- the, the frequency  
13 of 152.480, we set up a speaker in our shop, where most all  
14 the time we have a technician there in the shop. We set up a  
15 speaker so that we could hear all of the transmissions on  
16 152.480 megahertz that were not originating from our own  
17 system. Therefore, if anyone else transmitted on 152.480, we  
18 would hear that and know also if there was any harmful inter-  
19 ference occurring.

20 Q Okay. So, you can identify anybody that's trans-  
21 mitting on 152.48 --

22 A With that --

23 Q -- with that equipment?

24 A By their Morse Code ID.

25 Q Break it down for, for us, the uninitiated in

1 technical stuff. The Morse Code ID is, is what?

2 A It's the -- it sends out the call letters and  
3 numbers of the station in Morse Code. That's a requirement of  
4 the FCC. Everyone --

5 Q Okay.

6 A -- has to do that that's operating a transmitter.

7 Q Okay. So, when you're listening to your monitor, if  
8 another licensee is ID'ing their station call sign with Morse  
9 Code, you can hear that on the monitor. Is that how that  
10 works?

11 A Yes, we can.

12 Q Okay. So, at some point, I take it then, you  
13 determined that Capitol was ID'ing by their Morse Code on  
14 152.480? Is that correct?

15 A Yes.

16 MR. HARDMAN: I object, Your Honor. The -- there is  
17 no foundation that it was Capitol -- now, if, if, if Mr. Joyce  
18 wants to ask whether this witness --

19 MR. JOYCE: I withdraw --

20 MR. HARDMAN: -- heard the --

21 MR. JOYCE: -- the question.

22 MR. HARDMAN: -- Morse Code on --

23 JUDGE CHACHKIN: All right.

24 MR. JOYCE: I withdraw the question.

25 JUDGE CHACHKIN: Question's withdrawn and --

1 MR. JOYCE: Mr. Capehart --

2 JUDGE CHACHKIN: -- the answer is stricken.

3 BY MR. JOYCE:

4 Q -- at some point were you able to determine that  
5 entities other than RAM Technologies were ID'ing on 152.48?

6 A Yes, we were.

7 Q Who was ID'ing on 152.48?

8 A The Morse Code ID that was being ID'd on 152.480 was  
9 the call letters and call numbers of Capitol Radio Telephone.

10 Q Thank you. And approximately when was this  
11 happening?

12 A It happened first in -- that we heard the call sign  
13 in March of '91.

14 Q Okay. Now, you said a little earlier, end of 1990?

15 A Yes. I, I am not aware of the station ID being  
16 recognized at the end of 1990. Someone else may be able to  
17 testify to that.

18 Q I see. Is it -- so, there was some different  
19 interference problem at the end of 1990? It wasn't -- is, is  
20 that what you're saying?

21 A I'm saying that I have no knowledge of the Capitol  
22 Radio Telephone call sign being transmitted during the inter-  
23 ference problem of November of 1990.

24 Q Oh, okay. You have no personal knowledge of that?

25 A Yes, that's correct.

1 Q Okay. So, you did have personal knowledge of this  
2 happening in, in approximately March of 1991?

3 A Yes, I did.

4 Q Okay. When these Morse Code IDs were transmitted,  
5 approximately how much air time would they take up?

6 A Ten to fifteen seconds.

7 Q Is that a lot of time for a paging company, to take  
8 up 10 seconds?

9 MR. HARDMAN: Your Honor, I'm going to object to  
10 this line of inquiry. There is a -- an issue in the Hearing  
11 Designation Order about -- slow Morse Code identification  
12 during August of, of 1991. There is not during March of 1991.

13 MR. JOYCE: That -- the --

14 JUDGE CHACHKIN: Is the issue relating to any Morse  
15 Code -- slow Morse Code in this period you're talking about?

16 MR. JOYCE: My question is more broadly addressed to  
17 the issue of interference, Your Honor.

18 JUDGE CHACHKIN: You just asked him about slow Morse  
19 Code, I thought, Morse Code identification. That was your  
20 question.

21 MR. JOYCE: Yeah. I'm trying to determine how much  
22 air time that took up, because the -- it goes to the allega-  
23 tion of whether or not that was causing interference to RAM's  
24 operation.

25 MR. HARDMAN: The witness has already testified that

1 the ID took 10 to 15 seconds. Is he re-asking the same  
2 question?

3 JUDGE CHACHKIN: What, what -- I'll sustain the  
4 objection to the last question. You can, you can proceed, Mr.  
5 Joyce. The last question, I gather, was was that a normal  
6 long time in, in his judgment. That's what your last question  
7 was.

8 MR. JOYCE: That's correct, Your Honor.

9 JUDGE CHACHKIN: And, as far as I know, no evidence  
10 has been established that this witness has knowledge of indus-  
11 try practice. He's worked at one company. That doesn't  
12 constitute a whole industry. I don't see where he's in a  
13 position --

14 MR. JOYCE: I understand, Your Honor.

15 JUDGE CHACHKIN: -- to testify as to that.

16 MR. JOYCE: All right.

17 JUDGE CHACHKIN: So, I'll sustain the objection to  
18 that last question.

19 BY MR. JOYCE:

20 Q Mr. Capehart, were those Capitol Morse Code IDs  
21 interfering with RAM's operations?

22 A Yes, they were.

23 Q How so?

24 A When they would station ID over the top of our pages  
25 that were going out, if it's station ID during a digital

1 sequence it would probably bump three to four digital pages  
2 off the air, in other words, those pages would never be re-  
3 ceived by the intended party because of the interference.

4 Q Were you and RAM doing the same thing to Capitol  
5 during that period?

6 A No.

7 Q For how long did that interference go on?

8 A Approximately two months on and off.

9 Q When you say "on and off," does that mean it was  
10 every day, every other day?

11 A Sometimes it would go on for a day or two. Some-  
12 times it would stop. It was an intermittent problem, but it  
13 was sometimes for 24-hour periods.

14 Q It could be in the morning and the afternoon?

15 A Yes.

16 Q And the evening?

17 A Yes.

18 Q During that time, did you monitor any actual pages  
19 going out from Capitol to a customer?

20 A I heard some voice pages during the lunch hour every  
21 day, two or three.

22 Q Did you recognize those?

23 A Those voice pages? Yes.

24 Q Yes. This is on 152.48?

25 A Um-hum.

1 JUDGE CHACHKIN: The answer is yes.

2 MR. BOGERT: Yes.

3 BY MR. JOYCE:

4 Q Would it be possible to, to, to know where those  
5 voice pages were being sent from?

6 A Yes.

7 Q How would you know?

8 A If you heard the station ID also sent with the  
9 pages.

10 Q Did you hear the station ID sent with those pages?

11 A I have no personal knowledge of that.

12 Q Did you recognize those voices that you heard?

13 A I recognize one voice I thought.

14 Q Who was that?

15 A It was the voice of Michael Raymonds.

16 Q And he is --

17 MR. HARDMAN: Your Honor, at this point I'm going to  
18 object and move to strike any reference to communications that  
19 this witness heard. Section 605 in the Communications Act  
20 makes it illegal to do this kind of monitoring. This is  
21 evidence that is illegally obtained and move to strike on that  
22 basis.

23 MR. JOYCE: That's, that's a patent misreading of  
24 Section 705 of the Act. There's no prohibition against moni-  
25 toring on a shared frequency that you're licensed to operate

1 on. I've not asked him to tell me what Mr. Raymonds may or  
2 may not have been saying, so there's no disclosure of the  
3 content of communications. He's simply, simply telling us  
4 what the source of the, the communications was and that it  
5 happened to be causing interference to them. It's a perfectly  
6 proper question and answer.

7 MR. HARDMAN: Your Honor, it's -- it is sufficient  
8 to quote the disclosure to violate the Act because he identi-  
9 fied a person that communicated. I might add he committed by  
10 his testimony that he listened to the messages that were being  
11 transmitted.

12 MR. JOYCE: PCP licensees are required to monitor  
13 their frequency to avoid causing harmful co-channel  
14 interference --

15 MR. HARDMAN: that was not this witness's testimony.  
16 He was, he was monitoring for commercial purposes to determine  
17 competitive information.

18 MR. JOYCE: No. That's your testimony, Mr. Hardman.  
19 That is not the witness's testimony.

20 MR. HARDMAN: -- what, what he is doing. He is --  
21 he was not describing a situation of monitoring for the pur-  
22 pose of avoiding causing interference to a co-channel  
23 licensee.

24 MR. JOYCE: Oh, I believe that most certainly was  
25 his testimony. You can, you can inquire about why he was



1 | doing it, if you want, on cross-examination. I'm sure you  
2 | will get the same answers that, that I'm getting. I'm not  
3 | asking to disclose the content of communications. There's a  
4 | two-prong requirement to violations of Section 705. You've  
5 | been practicing this as long as I have, Mr. Hardman. I be-  
6 | lieve you're familiar with them. One is the unauthorized  
7 | interception. This was not unauthorized because he's required  
8 | to monitor that frequency. And the second prong of it, if I  
9 | may finish to respond to your objection, the second prong is  
10 | disclosure of the content of that communications without  
11 | authorization. I've not asked for violation of either prong  
12 | of Section 705 of the Act. This hearing is certainly an  
13 | inappropriate one for you to raise your objections about past  
14 | violations beyond the statutory period of violations of  
15 | Section 705 of the Communications Act.

16 |           MR. HARDMAN: Well, the, the objection goes to  
17 | evidence that was illegally obtained, by the witness's own  
18 | testimony. I'll --

19 |           MR. JOYCE: Patently untrue.

20 |           MR. HARDMAN: The, the unauthorized interception is  
21 | that this witness was sitting there listening to messages go  
22 | out over the air. He had no function to -- as part of that  
23 | system to prevent the -- RAM's system from transmitting on top  
24 | of, of pages of a co-channel licensee. He was not performing  
25 | any function to, to make RAM's system comply with, with the

1 rule. This was gratuitous monitoring for competitive purpos-  
2 es, which is precisely the type of, of, of monitoring that  
3 Section 605 is trying to put a stop to. Furthermore, it's an  
4 invasion of privacy.

5 MR. JOYCE: Well, you can --

6 MR. HARDMAN: There was another purpose that this  
7 section is designed to put a stop to.

8 MR. JOYCE: Mr. Hardman, can I ask Mr. Capehart what  
9 competitive advantage RAM got from monitoring to determine the  
10 source of interference to their operations? I'd be happy to  
11 hear that answer. The --

12 MR. HARDMAN: The -- it's -- this witness is here  
13 testifying against a competitor, so it doesn't take a great  
14 deal of imagination to figure out what sort of competitive  
15 advantage he was trying to get.

16 MR. JOYCE: When I'm done with my cross-examination,  
17 Mr. Hardman, I will have no objection to that line of  
18 questioning.

19 JUDGE CHACHKIN: What's, what's the Bureau's posi-  
20 tion on this?

21 MS. LADEN: Pardon me?

22 JUDGE CHACHKIN: What's the Bureau's position?

23 MS. LADEN: Your Honor, I wanted to point out that  
24 Section 90.173(b) of the Commission's Rules, which requires  
25 applicants who are sharing frequencies to take whatever steps

1 are necessary to reduce interference, and specifically it  
2 states that, "licensees of stations suffering or causing  
3 harmful interference are expected to cooperate and resolve  
4 this problem." Our position is that, that the monitoring that  
5 occurred was pursuant to resolving the interference problem  
6 and I disagree with Mr. Hardman's position that you will --  
7 can only monitor when you are causing interfer-- to prevent  
8 causing interference. The rule clearly permits such steps to  
9 be taken when the licensee is suffering interference.

10 MR. JOYCE: There's an affirmative obligation, Your  
11 Honor, it's another rule section, that licensees monitor their  
12 operations.

13 JUDGE CHACHKIN: What was the purpose of the moni-  
14 toring you were doing at this time?

15 MR. CAPEHART: We were monitoring the system because  
16 we had been experiencing harmful interference and we wanted to  
17 make sure that we knew when this harmful interference  
18 occurred.

19 JUDGE CHACHKIN: I'll overrule the objection. Go  
20 ahead, Mr. Joyce.

21 BY MR. JOYCE:

22 Q So, that was the -- another form of, of interfer-  
23 ence? Were, were there -- again, getting straight on the  
24 dates here, we're talking about, now, March, April of 1991?  
25 Is that correct, approximately?

1           A     Yes.

2           Q     Okay. Then I take it there were subsequent inter-  
3     ference problems? Is that correct?

4           A     I'm sorry. Restate the question, please?

5           Q     I'm sorry. I take it there were subsequent inter-  
6     ference problems after that, after March, April of 1991?

7           A     Yes.

8           Q     Okay. Approximately when did those interference  
9     problems begin?

10          A     Starting in July of '91 we started to monitor a  
11     sequence of two-tone pages, four of them in sequence. It took  
12     up approximately 25 seconds and transmit once every minute.  
13     And we associated the call sign of Capitol Radio Telephone  
14     with those pages. They occurred for 24 hours a day for days  
15     on end, once over a month before they stopped.

16          Q     While you were monitoring this did you determine  
17     that that tone sequence was being sent to any customers of  
18     Capitol?

19          A     We had no way of determining that, but it was the  
20     same set of tones over and over and over.

21          Q     This may sound silly, but, I mean, what would that  
22     sound like?

23          A     I can hum it for you if you'd like for me to. I  
24     listened to it for months.

25          Q     All right.

1 MR. HARDMAN: Your Honor, I believe there is -- rule  
2 that prohibits reproduction of sounds of this sort.

3 MR. JOYCE: I withdraw the question.

4 MR. HARDMAN: -- procedure.

5 MR. JOYCE: I withdraw the question. I'll spare Mr.  
6 Hardman.

7 BY MR. JOYCE:

8 Q That went on for approximately how long then?

9 A Until the Field Operations Bureau made their visit  
10 to Huntington and Charleston, West Virginia.

11 Q Did, did you contact Capitol about that interference  
12 problem?

13 A No, I did not.

14 Q Did you contact the FCC about it?

15 A Yes.

16 Q So, August 1991, the FCC investigates your opera-  
17 tions and, and Capitol's, correct?

18 A Yes.

19 Q And you say following that visit the interference  
20 stopped?

21 A It stopped during the visit.

22 Q Were there any subsequent interference problems  
23 after that?

24 A Yes.

25 Q Approximately when?

1           A     Starting in early '92, we heard digital pages coming  
2 again from 152.480 that were not originating from our  
3 transmitter, and we then ran into a problem with a, a pager of  
4 one of our customers going off intermittently when no one had  
5 called the number to set it off. We had one of our field  
6 engineers investigate this, and during the course of his  
7 investigation he discovered that this cap code was being  
8 transmitted by Capitol Radio Telephone --

9           MR. HARDMAN: I object, Your Honor. The -- this is  
10 hearsay. If they want to produce the person who did it to  
11 explain how they made that determination, but there's certain-  
12 ly no foundation for the allegation that Capitol was doing  
13 anything.

14           JUDGE CHACHKIN: Do you, do you know how he made  
15 this determination?

16           MR. CAPEHART: Yes. He used --

17           JUDGE CHACHKIN: I'll overrule the objection. How  
18 did he make this determination?

19           MR. CAPEHART: He used a Hark verifier. It was  
20 connected to a radio frequency receiver and to a printer, and  
21 he made the determination that the page was being sent out on  
22 152.480 and he also discovered that it was the same pages  
23 being sent on 152.510 by Capitol Radio Telephone.

24           JUDGE CHACHKIN: If you can demonstrate a need for  
25 this particular individual, I'll consider your objection at

1 that time. But the witness appears qualified to be able to  
2 answer questions concerning what was done.

3 BY MR. JOYCE:

4 Q Mr. Capehart, a paging unit, and I, I see a few  
5 folks in the room carry these around, I do not, are they -- if  
6 I, if I could use one for demonstration purposes, this cap  
7 code you're referring to, is it -- it's a unique number for  
8 this particular paging unit?

9 A Yes.

10 Q So, it, it's like a telephone number? Nobody else  
11 should have it?

12 A Yes.

13 Q Okay. By your, your hesitation, I gather that  
14 perhaps it -- unintentionally people have more than one cap  
15 code that --

16 A Well, no. What I was going to say was that the  
17 frequency and the cap code determines whether the pager goes  
18 off. It has to be --

19 Q Okay.

20 A -- on the frequency that the cap code is being  
21 transmitted on.

22 Q You're getting ahead of me though.

23 A I'm sorry.

24 Q Okay. I, I gather that in your service area, if  
25 you're operating on the same frequency, and we'll take this

1 one step at a time, so don't get ahead of me, you want to be  
2 sure that your customers carrying this paging unit don't get  
3 activated because the same cap code was given out to a Capitol  
4 paging unit. Is, is that fair to say?

5 A Yes.

6 Q Okay.

7 (Off the record.)

8 (On the record.)

9 BY MR. JOYCE:

10 Q By the same token, I gather if Capitol was on a  
11 different frequency and they gave out pagers that happened to  
12 have the same cap codes as your pagers, there wouldn't be any  
13 false paging because you're on a different frequency. Is that  
14 correct?

15 A That's correct.

16 Q Okay. So, your customers' pagers are assigned a  
17 particular frequency in the, the unit itself of 152.480  
18 frequency?

19 A Yes.

20 Q Okay. Plus that unique cap code?

21 A Yes.

22 Q Okay. So, when your customer was being -- receiving  
23 a page, you determined -- you had eliminated the possibility  
24 that RAM had sent the page to it?

25 A Yes.



1 Q And determined it had to be some other licensee?

2 A That's correct.

3 Q All right. And that's what led you to investigate  
4 further to see who was causing that false paging?

5 A Yes.

6 Q Okay. Would there be some service reason, some  
7 option that a customer has asked for -- and I'm not putting  
8 this very well, but why would someone want to resend a page  
9 that's gone out on one frequency, 152.51, and resend it onto  
10 another frequency?

11 A I, I don't know of any reason.

12 Q I mean, the page has already gone out to the cus-  
13 tomer on 152.51, so they've received their message, right?

14 A Correct.

15 Q So, those identical pages were being sent onto  
16 152.48?

17 A Yes, they were.

18 Q And each time that happened it caused a little more  
19 traffic on 152.48?

20 A Yes, it did.

21 Q Was it just one or two 152.51 pagers being retrans-  
22 mitted on 152.48?

23 A I'm sorry. State the question again?

24 Q Okay. Was it -- did this happen just with one  
25 paging unit or two paging units that you noted a 152.51

1 Capitol being retransmitted onto 152.48?

2 A First, it was the one, but it started to accelerate.  
3 We found more pagers that were falsing that we had problems  
4 with.

5 Q How many more? Three more, four more?

6 A The numbers seemed to increase as the days went by.

7 Q When you were monitoring the frequency, would, would  
8 there be some visual indication of this traffic or oral?

9 A I'm not sure what the question is.

10 Q Yeah, I -- it wasn't well put. I'm trying to get  
11 an, an idea that the scope, the magnitude of the interference,  
12 and so I'm -- you know, I'm grappling with terminology that  
13 I'm unfamiliar with, it sounds like it -- a false page to one  
14 customer might have been annoying to that customer, but  
15 doesn't sound like a big deal relatively. But you're saying  
16 that the problem was getting worse, so --

17 A Yes. We were getting more complaints from the  
18 customers.

19 Q I see. And then did there come a time when there  
20 was a whole lot of that RCC traffic on the 152.48 frequency so  
21 that it became difficult for you to get your pages out?

22 A Yes.

23 Q Did you ever talk to Capitol about this issue, the  
24 retransmitting of RCC pages onto the PCP frequency?

25 A No, sir. I did not.

1 Q RAM Technologies has an RCC frequency too, right?

2 A Yes, we do.

3 Q Do you ever retransmit your PCP pages onto your RCC  
4 frequency?

5 A No, sir.

6 Q Can you think of any legitimate business reason for  
7 doing that?

8 A No, sir.

9 Q To finish this area of inquiry, when Capitol re-  
10 transmitted its --

11 MR. HARDMAN: I object, Your Honor. There is no --

12 JUDGE CHACHKIN: Sustain the question -- or I  
13 sustain the objection. Let's --

14 MR. JOYCE: I withdraw the question.

15 JUDGE CHACHKIN: -- the questions. All right.

16 BY MR. JOYCE:

17 Q When, when those 152.580 frequency pages when --  
18 were retransmitted on 152.48, they just went out into the air,  
19 right? They didn't actually go to a paging customer, did  
20 they?

21 A Did you mean when the 152.510 pages?

22 Q Yes. I apologize if I misspoke.

23 A What you said is correct.

24 Q Okay. Is it possible that those transmissions were  
25 test transmissions?

1 MR. HARDMAN: Your Honor, I'm going to --

2 MR. CAPEHART: No.

3 MR. HARDMAN: -- object. This witness has no  
4 demonstrated knowledge about anything on 152.51 other than  
5 what we've heard -- that you've heard on --

6 JUDGE CHACHKIN: I'll sustain the objection. The  
7 answer will be stricken unless some foundation is laid for the  
8 witness's knowledge.

9 BY MR. JOYCE:

10 Q Are you familiar with the process of, of testing  
11 paging systems, Mr. Capehart?

12 A Yes, I am.

13 Q Have you been involved in test operations?

14 A Yes, I have.

15 Q How do you test a paging system?

16 A What aspect of the paging system?

17 Q You pick it.

18 A If you wanted to test to see if you had a duplicate  
19 cap code on the system, you would go to the paging terminal,  
20 run the program that checks for a duplicate cap code to see if  
21 you had inadvertently given that cap code to more than one of  
22 your customers. That's one method of testing.

23 Q How long would that test take?

24 A It would take 30 seconds.

25 Q What about for field coverage, the, the scope of

1 your paging signal?

2 A Yes. I'm familiar with testing in that respect.

3 Q How long does that test take?

4 A According to the size of the area, but I would say  
5 never more than four hours.

6 Q Was this retransmission of RCC pages on one 152.48  
7 -- would that in your experience have been a field test?

8 A No, sir.

9 JUDGE CHACHKIN: Have you ever conducted any field  
10 tests?

11 MR. CAPEHART: Yes, I have.

12 BY MR. JOYCE:

13 Q What about that Morse Code ID interference? Would  
14 that have been done in a, in a field test?

15 A No, it wouldn't be connected in any way.

16 Q What about that sequence of tones that you heard  
17 throughout the months of July and August of 1991? Would  
18 that --

19 MR. HARDMAN: Your Honor, I'm going to object again  
20 as to mischaracterization of this witness's record.

21 MR. JOYCE: How so?

22 MR. HARDMAN: He said that the, the, the sequence of  
23 tones was heard throughout the, the months of July and August  
24 and that is not the testimony of the record.

25 MR. JOYCE: What was his testimony, Ken?

1 MR. HARDMAN: Well, I'm not the witness.

2 MR. JOYCE: Well, you're saying it's mischaracter-  
3 ized. I that thought that's exactly --

4 MR. HARDMAN: Well, one thing, this witness, as well  
5 as the FCC inspectors, testified that the, the sequence of  
6 tones stopped on the 14th of, of August when they went to the  
7 -- Capitol to inspect, but that is certainly not throughout  
8 the month of August.

9 MR. JOYCE: I'll rephrase the --

10 MR. HARDMAN: --

11 MR. JOYCE: -- question. I'll rephrase the  
12 question.

13 BY MR. JOYCE:

14 Q The tone sequence that you heard in July and August  
15 of 1991, Mr. Capehart, did that sound to you like a field  
16 test?

17 A No, it did not.

18 Q Why not?

19 A Because of the length of the sequence of transmis-  
20 sions. It, it was 24 hours a day for days and weeks on end.  
21 No one would have someone out in the field testing coverage at  
22 3 and 4:00 in the morning. There wouldn't be no reason to --  
23 in other words, you would limit that test to four hours at the  
24 most if you were going to send to people out in the field to  
25 check and see if they got a page every five minutes, say, or

1 whatever the interval was. Then you would turn that testing  
2 procedure off in the paging terminal and gather the informa-  
3 tion from the people that were out in the field. There would  
4 be no reason why you would do that 24 hours a day, seven days  
5 a week for weeks on end.

6 Q Have you ever tested a control link?

7 A (No audible response.)

8 Q Or are you familiar with the process of testing  
9 control links?

10 A Yes.

11 Q These interference problems that you've experienced,  
12 is it possible that they were related to a, in your  
13 experience, to a control link test?

14 A I don't think so.

15 Q Why not?

16 A If you were going to test a control link, you could  
17 certainly put a dummy load on your transmitter so that it  
18 wouldn't transmit anything out into the air to cause any  
19 harmful interference, and that type of test would not go on  
20 for the length of time that we experienced the harmful inter-  
21 ference. That would take an hour at most.

22 Q Did anyone at Capitol ever tell you that they had a  
23 link problem?

24 A No, sir.

25 Q Did anyone at Capitol ever tell you that they had a

1 testing problem?

2 A No, sir.

3 MR. JOYCE: I have no further questions.

4 JUDGE CHACHKIN: Mr. Hardman?

5 CROSS-EXAMINATION

6 BY MR. HARDMAN:

7 Q Let's go back to the, the cap codes for a minute.

8 And if I recall your testimony correctly --

9 A I, I can hardly hear you. I'm sorry.

10 Q I'll try to do better.

11 A Thank you.

12 Q Let's go back to the cap codes for a minute, and  
13 what I believe you referred to as a falsing --

14 A Yes.

15 Q -- to -- and I believe your testimony was that the  
16 cap codes are uniquely assigned to the different carriers. Is  
17 that right?

18 A No, sir.

19 Q Okay. Was your testimony that the cap codes are  
20 uniquely assigned to individual receivers?

21 A Yes, sir.

22 Q Now -- and if I understood your testimony correctly,  
23 you -- one could -- a carrier could assign the same set of cap  
24 codes to pagers on the frequency 152.480 and 152.51 or any  
25 other frequency, as far as that's concerned, and because the



1 pagers are listening to different frequencies, the duplication  
2 of the cap codes will not cause falsing. Isn't that right?

3 A I'm -- I didn't understand your question. I'm  
4 sorry.

5 Q All right. If I understood your testimony correct-  
6 ly, you would agree, would you not, that a carrier could  
7 assign the same set of cap codes to pagers listening to 152.48  
8 megahertz and another set of pagers on 152.51 megahertz with-  
9 out causing falsing. Isn't that right?

10 A That's correct.

11 Q And the reason is that the transmissions occur on  
12 different frequencies so that the duplicate cap code, if you  
13 will, is not actually heard by both sets of pagers. Isn't  
14 that right?

15 A That's correct.

16 Q Isn't it also true that the cap codes are assigned  
17 by the manufacturers of the pagers -- paging receivers?

18 A No, sir, it's not.

19 Q Is it your testimony that you could request a  
20 specific set of cap codes from your paging receiver manufac-  
21 turer and be assigned that set of cap codes by the  
22 manufacturer?

23 A Yes. You can do that.

24 Q But there is no requirement, is there, that the  
25 manufacturer honor that request, is there?